

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

MARK WILLIAMS and CAROL WILLIAMS,

Plaintiffs,

v.

ELI LILLY AND COMPANY, an Indiana
corporation,

Defendant.

No. 5:14-cv-00460-FL

**DECLARATION OF KHESRAW
KARMAND**

I, Khesraw Karmand, declare as follows:

1. I am a member in good standing of the California State Bar and an attorney at the law firm of Keller Rohrbach L.L.P. and counsel for Plaintiffs in this case.

2. I submit this Declaration in support of Plaintiffs' Motion to Compel the Production of Lilly's Sales Representatives' Partial Custodial Files. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

3. On October 6 and 9, 2015, my colleague, Alison Gaffney, and I spoke with Lilly's counsel, Brett Reynolds, concerning Plaintiffs' outstanding requests for production of Lilly's sales representatives' custodial files. During these telephonic conferences, we asked Mr. Reynolds to provide data to permit us to assess Lilly's claim of undue burden. Mr. Reynolds responded that that no such data was available because Lilly had not reviewed any sales representatives' files. We also asked Mr. Reynolds that Lilly allow us to sample the files of one or two sales representatives to ensure that Lilly's proposed search terms were adequate. Mr. Reynolds responded that, consistent with Lilly's position in the other Cymbalta cases, Lilly would not agree to our request.

4. On November 5, 2015, Mr. Reynolds and I agreed to resume our discussions based on a broader set of search terms agreed to by Lilly and plaintiffs in a related Cymbalta lawsuit. On November 6, I spoke with Mr. Reynolds and we agreed to the use of a broader set of search terms. Mr. Reynolds stated that because Lilly was focused on its production of sales representative files in the other Cymbalta cases, it

would not get to the production of the files in this case until sometime in December. We agreed that I would send him the list of proposed search terms for this case in mid or late December.

5. Attached as **Exhibit A** is a true and correct copy of excerpts from Plaintiffs' First Set of Requests for Production to Defendant.

6. Attached as **Exhibit B** is a true and correct copy of excerpts from Defendant's Objections and Responses to Plaintiffs' Requests for Production.

7. Attached as **Exhibit C** is a true and correct copy of excerpts from Defendant's Amended Objections and Responses to Plaintiffs' Requests for Production.

8. Attached as **Exhibit D** is a true and correct copy of my letter, dated September 23, 2015, to all counsel of record regarding Plaintiffs' request for the custodial files of certain Lilly sales representatives.

9. Attached as **Exhibit E** is a true and correct copy of a letter, dated October 5, 2015, from Mr. Reynolds in response to my letter of September 23, 2015.

10. Attached as **Exhibit F** is a true and correct copy of my email discussions with Mr. Reynolds regarding Plaintiffs' request for the custodial files of certain Lilly sales representatives.

11. Attached as **Exhibit G** is a true and correct copy of the list of search terms that the parties have agreed to use for searching the sales representatives' custodial files in this case.

12. Attached as **Exhibit H** is a true and correct copy of a letter in *McCabe v. Eli Lilly and Company*, Case No. 0:14-CV-3132-RHK-JJK (D. Minn.) regarding the imposition of date restrictions excluding relevant sales representative documents.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 18th day of March, 2016 at Santa Barbara, California.

By /s/ Khesraw Karmand
Khesraw Karmand

CERTIFICATE OF SERVICE

I certify that on March 18, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the persons listed below:

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/s/ Khesraw Karmand
Khesraw Karmand